

Practitioner's Docket No. MPI98-052P1RDV10DV1M

USSN: 10/786,501

REMARKS

Claims 49-60 and 63-64 were pending in the present application. Claims 1-48 had been previously canceled, and claims 61-62 had been previously withdrawn. Claims 49-54, 61 and 63-64 have been canceled herein, without prejudice. Withdrawn claim 62 has been amended and Applicants request that this claim be rejoined herein. Any cancellation of the claims should in no way be construed as an acquiescence to any of the Examiner's rejections and was done solely to expedite prosecution of the application. No new matter has been added, and Applicants submit that all of the claims are now in condition for allowance.

*Rejection of Claims 63-64 under 35 U.S.C. §112, second paragraph*

Claims 63-64 were rejected under 35 U.S.C §112, second paragraph, "[a]s being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention". Specifically, the Examiner rejects the claims as being "[v]ague and indefinite for the recitation of "instructions for use."".

Applicants respectfully traverse this rejection, however in the interest of expediting prosecution, and in no way acquiescing to the Examiner's rejection, Applicants have canceled claims 63 and 64, thereby rendering the Examiner's rejection moot. Accordingly, Applicants respectfully request reconsideration and withdrawal of the foregoing 35 U.S.C. § 112, second paragraph rejection over claims 63-64.

*Rejection of Claims 49-54 and 63 under 35 U.S.C. §112, first paragraph*

Claims 49-54 and 63 were rejected under 35 U.S.C §112, first paragraph, "[a]s failing to comply with the written description requirement." Specifically, the Examiner states "Applicants' have not provided evidence of possession of the plethora of mutants or variants of SEQ ID NO:2, SEQ ID NO:7, and SEQ ID NO:9, that are at least 95% identical **AND** have kinase activity."

Applicants respectfully traverse this rejection, however in the interest of expediting prosecution, and in no way acquiescing to the Examiner's rejection, Applicants have canceled claims 49-54 and 63, thereby rendering the Examiner's rejection moot. Accordingly, Applicants respectfully request reconsideration and withdrawal of the foregoing 35 U.S.C. § 112, first paragraph rejection over claims 49-54 and 63.

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*Rejection of Claims 49-54 and 63 under 35 U.S.C. §112, first paragraph*

Claims 49-54 and 63 are rejected under 35 U.S.C. §112, first paragraph, "[a]s failing to comply with the enablement requirement." Since Applicants have canceled claims 49-54 and 63, Applicants submit that the rejection has been obviated. Therefore, Applicants respectfully request reconsideration and withdrawal of the foregoing 35 U.S.C. §112, first paragraph rejection over claims 49-54 and 63.

*Request for Rejoinder*

Withdrawn claim 62 (drawn to the invention of Group III(a); Restriction Requirement dated March 28, 2006) is dependent on claim 55. The Examiner has indicated that the invention of Group III(b) and the elected invention of Group III(a) are related to each other as product and process of use (Restriction Requirement dated March 28, 2006 at page 2). Accordingly, rejoinder of claim 62 is respectfully requested.

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CONCLUSIONS

In view of the amendments and remarks made herein, Applicants respectfully submit that the rejections presented by the Examiner are now overcome and that this application is in condition for allowance. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

This paper is being filed timely as no extension of time is required. In the event any extensions of time are necessary, the undersigned hereby authorizes the requisite fees to be charged to Deposit Account No. 501668.

Entry of the remarks made herein is respectfully requested.

February 22, 2006

Respectfully submitted,

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